

SOME BASIC TRUTHS ABOUT OUR GOVERNMENT

Address by
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SOME BASIC TRUTHS ABOUT OUR GOVERNMENT

We stand tonight in the shadow of the world's greatest tragedy. We have just withdrawn from participation in the greatest exemplification of the law of force that the world has ever seen. We are living in the aftermath of tremendous events, and the times appear to be out of joint. The war has ended but our Government continues to function on the legal fiction that it has not. We are oppressed by the high cost of living. Social unrest exists and discontent abounds. The rewards for the use of property and for services rendered are unevenly bestowed. The demonstration given by the war of the power of force has made its impression, and all over the land classes of our people are seeking through the coercion of the strike, which is but another name for force, to compel the granting to them of the rights and privileges which they demand. We need not be discouraged by these things for they are but a part of the upheaval incident to the cataclysm of war. The smoke of the great conflict will lift and we shall see more clearly; the common sense and patriotism of the American people will in due time make themselves heard; justice will again perform its functions; inequalities will be ameliorated, and orderly procedure re-established.

To the hastening of these devoutly to be wished for ends, we, who are here assembled, may with profit briefly review and again fix in our minds some of the basic truths upon which our Government is grounded, and which have guided its growth in beneficent power for more than a century and a quarter of time. It may well be that we of today are so far removed from the origin of our Government that we have forgotten from whence it came, or upon what its power rests. We may have forgotten that for each protection it affords, a duty is enjoined. Others of us, perhaps, coming from foreign lands to share in American liberty have not been sufficiently told in what this liberty consists, nor how, only, it can be preserved.

OUR GOVERNMENT A SOCIAL COMPACT.

Our Government is but a social compact. The key to it is found in the teachings of Solon, the great Athenian law-giver and founder of democratic government. When he was told that his proposed government would be but spider webs, and like them fit only to entangle the poor and weak, leaving the rich and powerful to easily break through, he replied that men keep their agreements when it is to their interest so to do. He said that under his proposed government each citizen would know that if he violated the law others would do likewise, and with the result that all protection to him of life, liberty and property would be gone.

In the preamble to the constitution of the Commonwealth of Massachusetts it is written that:

“A body politic is a social compact by which the whole people covenant with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good.”

In the preamble to the Constitution of the United States it is declared that,

“We the people of the United States
* * * do ordain and establish this constitution * * *.”

Its establishment followed the creation of the States, but it is not the constitution of the States, but of all the people of all the States. It is their social compact, to the keeping of which each citizen, for his own and the common good, is pledged.

A constitution is not power; it is but the symbol of power. The power is in the people.

We have been taught that of the three forms of government the principle of the monarchical is honor, of the despotical, fear, and of the republican, virtue. The strength and power of our Government rests and so long as it endures must rest upon the virtue of the American people.

Thomas Jefferson, in his first inaugural address to Congress, gave it as his opinion that our Government was the strongest upon earth, because, he said, it was the only government where every citizen at the call of the law would place himself beneath its banner and make every assault upon it a matter of personal concern to him.

THE RIGHT OF PROPERTY.

The three great rights of life, liberty and property existed for all our people before our Constitution was written. They are natural rights. They are inherent and inalienable. Our Government does not confer them, but was organized and exists to protect them, and to protect them equally for all. All law-abiding citizens concede that the right to live is inherent and inalienable and cannot be denied except by due process of law, and the lawless who deny it must be suppressed. The right of property is not at this time so universally conceded, as it should be, to be inherent and inalienable, while the right of liberty is erroneously construed by some, to be a right of greater extent than it actually is.

The Constitution of the United States does not confer the right of property, but it protects it by providing that private property shall not be taken for public use without just compensation. The Constitution not only puts this limitation upon the power of the Government of the United States, but it goes further and denies to each State the power to abridge the privileges and immunities of citizens of the United States, and denies the power to any State to deprive any person of his property without due process of law. It does not define the privileges and immunities of citizens which it protects, but in the very early history of the development of our present magnificent system of jurisprudence the courts declared that:

“The right of acquiring and possessing property and having it protected is one of the natural inherent, and inalienable rights

of men," and that "no man would become a member of a community in which he could not enjoy the fruits of his honest labor and industry."

They declared that included in the privileges and immunities protected by the Constitution was the privilege of acquiring and possessing property of every kind, and that these privileges and immunities were those which of right belong to the citizens of all free governments.

History teaches us that the dawn of civilization began with the recognition of the right of property, and also teaches us that the fall of the ancient republics dated from the beginning of their denial of this right.

Our country has been startled more than once in recent years by the declaration from men in high places of the possibility of the right of property being destroyed. Every student of our Constitution knows that so long as the Constitution stands, it is beyond the power of Congress, or of any State Legislature, to take the private property of any citizen without due process of law and without just compensation.

We should not close our eyes to the fact, however, that there are false teachers and prophets abroad in the land, who, for one reason or another, would destroy the right of private property, and would build upon its ruins a state of socialism, or communism, where all property would be community property. We occasionally hear much of a supposed distinction between the right of property and the right of liberty. We hear the rights of men exalted as something apart from and above the rights of the

dollar. Those who so speak apparently lose sight of the fact that the very essence of liberty is the right to acquire, to own and to enjoy property, and that the right of property and the right of liberty are inseparably linked the one with the other.

The privilege of pursuing an ordinary calling or trade is a right of liberty, but vain would be that right if the fruits of its exercise may not be protected.

The specious distinction urged has already resulted in the writing into our statutes of the economic untruth that labor is not a commodity. All must agree that if by the word "labor" is meant "laborer," the statute speaks but such an obvious truth that its enactment was unnecessary; for no person, under our free government, can be a commodity. If, on the other hand, by "labor" is meant a service which is bought and sold, and which has a market value, it undoubtedly is a commodity. In our courts of justice the lawyer, the physician, the bricklayer, the carpenter, the miner, and all others who labor with hand or brain can recover upon a *quantum meruit* for services performed, for the value of that which has been done can be proven, and the right to buy and sell it will not be questioned. Not only so, but the labor value attaching to and forming a part of the value of all physical subjects of barter and sale is everywhere bought and sold.

I gravely doubt if all those insisting upon the proposition that labor is not a commodity, realize that such declaration is but the first essential step in the establishment of communism. Any reader of the theory of communism knows that once the proposition that labor is not a commodity is clearly

established, it will be followed by the abolishment of the wage system, for obviously if labor is not a commodity, is not something which may be bought and sold, the wage system must be abolished. With the abolishment of the wage system the next step in the establishment of communism is the abolishment of private property, for labor must be compensated; those who labor must live, and if that which they do has no market value, and is not to be compensated for in wages, it must be compensated for by an interest in property, or in the earnings of property.

We are witnesses today of the beginning of an organized effort in our country to establish complete communism in certain property for one class of our citizens. This effort is found in what is known as the "Plumb Plan" for the reorganization of the railroads. This plan abolishes private property in railroads, makes railroads community property, and gives to the workers on them complete control over them, with the right to fix such rewards and emoluments for themselves as to them seem just and right. This plan proposes by legislative *fiat*, and in violation of the Constitution, to take these railroads from their owners without providing just compensation. It declares railroads to be public highways, and not private property, in the face of the fact, known to all, that they were built by private capital, and that the Supreme Court of the United States has times without number declared them to be private property, and that their value is under the protection of the Constitution.

The plan proposes to compensate the owners of this property, not for its value, but by a process of

accounting, for such amount only as the owners, considered as public agents, may have actually invested in the property at the time of the taking.

The plan proposes, after thus violating the Constitution in taking the properties, to create a special and favored class of our citizens, to wit: the workers on the railroads, and to deliver to them to do with as they please, these properties, in which all citizens have been declared to have an interest. True, the plan proposes to put upon the workers the obligation to share with the public the surplus from earnings remaining after their demands have been satisfied, but as they are to be the judges of what their demands shall be, no one will be misled by the obligation proposed to be imposed.

THE RIGHT OF LIBERTY.

When we come to consider the right of liberty we must keep in mind that liberty is not license. We are not at liberty to do anything and everything that impulse or desire may suggest. We do not enjoy the liberty of the jungle, but liberty under the law. In the organization of our social compact, the courts declare, that each citizen necessarily parts with some rights or privileges which as an individual, not affected by his relations to others, he might retain. He agrees upon entering the compact, that the Government may regulate his conduct towards other citizens, and the manner in which he may use his own property, whenever such regulation becomes necessary for the public good.

The right to the enjoyment of life and of liberty, the right to acquire and possess property, and the

right to pursue and obtain happiness, are all alike subject, under our social compact, to such restraints as the Government may justly prescribe for the general good of the whole.

Our right of private property is subject to the condition that we will not use it to the hurt and injury of the common good, or of the general welfare. We have restrained our Government from taking private property except by due process of law and upon just compensation, but subject to that restraint the Government may take it whenever it is to the common good and for the general welfare. It is upon the principle that the right of private property may be restrained for the common good that our law condemns monopolies, and subjects to public regulation the private property composing our public utilities. It was upon this principle that aggregations of private capital, commonly known as trusts, have been placed upon the dissecting table and their power for harm removed. It is upon this principle that if the operation performed is not successful it will be repeated again and again. Is not a labor trust as hurtful to the common good and to general welfare as a money trust? If the money trust may be placed on the dissecting table, why not the labor trust? Does not the principle of our social compact apply equally to both? Is not an autocracy of labor as harmful as an autocracy of capital? There is no room under our Government for autocracies of any kind. In these suggestions no thought of slavery, of involuntary servitude or of peonage is involved or implied, for under our social compact a man can no more use his right of liberty to the injury and hurt of

his fellow men, than he can so use his right of property. The right of liberty may be restrained, just as the right of property may be restrained, when it is to the common good.

Where, under our social compact, can be found the justification for any body of men to conspire to freeze all the people, in order that they may coerce those whom they immediately serve, to grant to them what they believe to be and what may be, their just demands? Where, under our social compact, can be found the justification for any body of men to conspire to stop the wheels of transportation, to suspend and destroy the commerce of the country, to bring suffering and death upon the masses of the people in order that they may receive from those they serve what they believe to be, and what may be, just rewards for their services?

If such power to conspire is legally justified under our social compact, and if there is no power in our established government to prevent and punish it, the supremacy of the Government is gone, the equality of the law is destroyed, the equal protection of the great rights of life, liberty and property ceases to exist, and we live in a state of anarchy, where to the strong all things are possible. Our social compact cannot endure if the Government created thereunder to protect all is actually less powerful than one class of the people whom it assumes to protect.

OUR SYSTEM OF LAWS.

Our present system of laws is the result of evolutionary development. We have profited by our

experiences. We have made new laws from time to time as developments required them to be made. We have perhaps made some which should not have been made, but each new law has been to meet a new condition. Our laws are not yet complete nor perfect. They may be fairly full and complete with respect to property rights, but in the face of past and existing conditions can we say that they are full and complete with respect to the rights of liberty? Has not the time arrived to force by legislative decree, the consideration of the common good and the general welfare, in the settlement of all labor disputes? Is there anything in the rights of employer or employee which is beyond the reach of the law, or that is superior to the common good and the general welfare? Is there any reason why our courts may not be, if they are not now, fully equipped to adjudicate these disputes, and the extent of, and the limitations upon liberty rights, just as they adjudicate the extent of and the limitations upon property rights, and the extent and limitations of all our rights?

Our boasted civilization is a myth and our Government a failure, if there, today, exists an autocracy of capital which can only be restrained and controlled by an autocracy of labor. If force must be resorted to by any citizen in order to lawfully enjoy any of his inherent and inalienable rights, our social compact is dead.

The Government must be supreme, and its appointed tribunals must adjudicate and determine all rights as between citizens, and as between the Government and its citizens, or there is no government.

THE COURTS.

Fear of the courts has been expressed by some, while others have denounced them, and already by legislative decree the courts have been stripped of their power in certain classes of cases. If these things are justified, shame and humiliation must be the portion of us all over the failure of American ideals.

Our social compact rests upon the mutual promises of our people that all will observe the law, and upon the confidence that our appointed agents will be true to their obligations.

The immortal Washington declared:

“If we are afraid to trust one another, under qualified powers, there is an end of union.”

The feeling of protection we enjoy is based upon our confidence in the honesty and integrity of human agencies, and upon our undying faith in the patriotism of the American people. Destroy this confidence, uproot this faith, inspire distrust, and the strength of our Government is gone.

We have many times declared ours to be a Government of law, and not of men. It is our courts that make it so. But for our courts we would have autocratic government, or anarchy. The statutes enacted by legislatures would be dead and meaningless things, but for the power and duty of the courts to give them vitality, and compel obedience to their commands. Private disputes could only be settled by force if there were no courts to compose them.

Power, under our form of Government, must be somewhere lodged, to say when a given act violates

the law, or else each person and each department of the Government must construe for himself or itself, and all is confusion. Power must be somewhere lodged to say when a statute violates the Constitution, or the legislature will be supreme and the Constitution a vain and empty thing. Where better can this power be lodged than in an independent judicial system? The crowning glory of our Government is in its judicial system, and because this system is independent, and of equal rank with the legislative and executive departments, the greater is the glory of our Government. Judges are human and must make mistakes, but let it be said to the everlasting honor of the American Bench that few are the instances where such mistakes have been intentional.

EDUCATION.

We should be strict to see that all our public agents, including the judicial, truly and well employ their great functions. We should be quick to applaud those who are faithful and to condemn and remove those who are unworthy. But above and beyond this, it is the duty of all who know and understand the principles upon which our Government rests, to disseminate their knowledge among the masses. A republic can only be maintained through the virtue of its people, and virtue cannot exist where ignorance controls. The need of the present hour is education, not simply education in the limited sense—important as it is—but education in the broad sense of knowledge of the duties of government, of the rights of men, and of the privileges and responsibilities of citizenship.

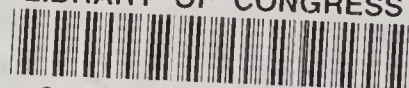
In our democracy, as in all others, the highest and best that may reasonably be hoped for is laws and officials fairly representative of the average intelligence of all the people. It is our duty ever and ever to strive to raise this average.

In our democracy, as in all others, we have legislatures and courts and offices and officers of all kinds, which we call our Government, but well we know that in the last analysis we have no government other than public sentiment. It is our duty ever and ever to strive to make this sentiment pure and strong and wholesome. The stream can rise no higher than its source, and if we would have a government pure and strong in its righteousness, we must make the body politic pure and strong in its righteousness.

Thomas Jefferson believed that only through the education of the masses could this republic endure. Throughout his long life, in letters and in speeches, he urged the importance and the necessity of education. So strong was his conviction in this regard that when he came to prepare the epitaph for his own tomb he forgot that he had been Governor, and Secretary of State, and Minister to France, and twice President of the United States, but he did remember what he had achieved for education and its child liberty, and his epitaph as he prepared it reads:

“Here lies the body of Thomas Jefferson, the author of the Declaration of American Independence, the Virginia Statute for religious freedom, and the father of the University of Virginia.”

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